(5) (3)

CF 1002 SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE AT BILASPUR CHHATTISGARH

WRIT PETITION (C) NO. 5605 /2006

P.R. No. 5618/06
Presented by Shri P. Shrivastava
dated 10/10/06

Komal Singh Raghuvanshi,
S/o- Sitaram Raghuvanshi,
Aged about 49 years,
R/o- 5/134, Nehru Nagar,
Bhopal,
Madhya Pradesh **Petitioner/Judgment Debtor**

VERSUS

National Insurance Company Ltd.,
Through- Divisional Manager,
Akasganga, Supela, Bhilai,
Distt. Durg,
Chhattisgarh. **Respondent/Decree Holder**

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT IN THE NATURE OF MANDAMUS, CERTIORARI ETC.

XI-HC-78

(62)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... NP(C) - 5605/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	08.12.2006 Shri Pankaj Shrivastava, Counsel for the petitioner. Heard on admission. By way of this Writ Petition filed under Article 226/227 of the Constitution of India, the petitioner has challenged the validity of the order dated 4/9/2006 passed by the VIII Additional District Judge (FTC), Durg in Execution Case No.371/2004, by which, his application filed under Order 21 Rule 26 of the Code of Civil Procedure has been dismissed by the Executing Court. The brief facts, as stated by learned counsel for the petitioner, are that an ex-parte award dated 30.06.2005 has been passed in MACC No.371/2004 and the petitioner has filed an application for setting aside the ex-parte award under Order 9 Rule 13 of CPC. During the pendency of the said application, the petitioner has moved the Executing Court under Order 21 Rule 26 CPC that the proceedings of the execution be stayed till the decision of the aforesaid application. It is this application, which has been dismissed by the Executing Court by the impugned order, against which, the present Writ Petition is filed. In the opinion of this Court, the petition filed is totally misconceived. When the petitioner has already filed an application under Order 9 Rule 13 CPC, he is having an opportunity to make a prayer for stay etc. before the said Court itself and leaving that remedy, he moved an application under Order 21 Rule 26 CPC, which was not at all justified.	

XI-HC-78

(63)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP(T)-5605/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	In the facts and circumstances of the case, no irregularity has been committed by the said Court warranting interference under Article 226/227of the Constitution of India. The petition has no merit and the same is dismissed. However, the petitioner shall be at liberty to move an appropriate application in the proceedings of his application filed under Order 9 Rule 13 CPC as the same is still pending, as stated by learned counsel for the petitioner. **Sd/-** **Sunil Kumar Sinha** **Judge**	

P.T.O.

9/7/12